SUPREME COURT OF THE UNITED STATES.

No. 48.

THE UNITED STATES, APPELLANT

vs.

JOHN BREWARD.

APPEAL FROM THE SUPERIOR COURT OF EAST FLORIDA.

INDEX.

	Original.	Print.
Petition to the court	1	1
Answer of United States attorney	5	3
Replication	8	5
Leave to amend petition and answer	9	5
Hearing of cause	9	6
Hearing continued and cause submitted	12	8
Evidence and testimony offered and read in this cause, at the hearing thereof, to wit:		
No. 1.—Memorial of Breward for grant	14	9
Grant to Breward	14	9
Certificate of Aguilar	15	10
Testimony of Alvarez, relative to said certificate	15	10
No. 2.—Certificate and plat of survey of 7,000 Acres	16	10
do. do. 3,000 do.	17	11
do. do. 2,000 do.	18	12
do. do. 4,000 do.	19	13
No. 3.—Commission to examine Hart, Doggett, Houston, C. Breward, and S. Breward	21	13
Interrogatories to said witnesses	22	14
Answers of Charles Breward	25	16
do. John Houston	27	17
do. Sarah Breward	29	18
do. Isaiah D. Hart	30	20
do. John L. Doggett	32	20
No. 4.—Commission to examine Doggett and Mills	34	22
Interrogatories to said witnesses	36	23
Answers of Mills	38	24
Answers of Doggett	39	25
No. 5.—Being the testimony of witnesses as taken in the case of E. Wiggins, and under agreement, offered and read at the hearing of this cause.		
Of Joseph S. Sanchez	41	26

	Original.	Print.
No. 5.—Continued.		
Of Zeph. Kingsley	45	29
Of John M. Fontane	48	31
Of John Rodman	52	33
Of John A. Cavedo	54	35
No. 6.—Commission to examine Alvarez	57	36
Interrogatories to Alvarez	59	37
Answers of Antonio Alvarez	62	40
No 7.—Document in the case of Juan Russell	65	41
Cause continued for further proof	66	42
Cause continued	67	42
Cause again submitted, and leave to introduce evidence	67	43
Decree of the court	68	43
Appeal to Supreme Court	71	45
Citation of appeal and return	71	45
Clerk's certificate	72	46
Judge's certificate	73	46

Before the honorable Isaac H. Bronson, Judge of the Superior Court for the District of East Florida, and specially authorized by law to receive and adjudicate claims and titles to lands in said district.

Be it remembered, that on the fourth day of April, in the year of our Lord one thousand eight hundred and twenty-nine, John Breward, by Joseph B. Lancaster, his attorney, brought and filed in the clerk's office of the superior court for the district of East Florida, his petition or claim to certain land therein mentioned; which said petition or claim is in the words and figures following, to wit:

Petition to the Court.

TERRITORY OF FLORIDA, *Eastern District—Superior Court.*

To the honorable the judge of said court in chancery sitting, the petition of John Breward, a resident and native of East Florida, respectfully sheweth:

That, upon the twenty-third day of August, eighteen hundred and sixteen, your petitioner, then a Spanish subject, placed before Don Jose Coppinger, then acting governor of the Province of East Florida, (by virtue of authority derived from the Spanish Government,) his petition containing proposals for the establishment of a saw-mill, to supply lumber to the use, both domestic and commercial, of the province, and praying a grant of land of five miles square, in several places in said petition named, as an indemnity and bounty for the erection of the mill proposed.

Your petitioner further sheweth, that, in consideration of the improvement and advantage arising to the then Province of East Florida, should the proposed mill be erected, the aforesaid Governor Coppinger did, on the twenty-fourth day of August, in the aforesaid year eighteen hundred and sixteen, order, decree, and grant, to your petitioner, the lands in his aforesaid petition asked for, which your petitioner avers amounts to the number of sixteen thousand acres, with the precise condition annexed to said grant, that, until your petitioner should build the said mill, he should not have an absolute title in the lands so as aforesaid granted.

Your petitioner further states, that, in or about the year 1816, he commenced preparing lumber, &c., &c., for the erection of said mill, and, from time to time, and at such times and seasons as were convenient to him, actually pursued and prosecuted the project of building the aforesaid saw-mill, at the place in his aforesaid petition named, until, at last, in the year 1819, he had her finished and completed, and furnished, at and since the last stated period, much sawed lumber cut by her, both for neighborhood and commercial uses; by virtue whereof, he alleges and avers that the condition to

be done and performed by him, precedent to a fee simple investiture in him of the lands, in the aforesaid grant to him granted, was performed and finished according to, and in pursuance of, the true intent and meaning thereof; wherefore, he says he is advised, and alleges he hath a good and absolute inchoate right, in fee simple, to the lands in said petition asked for.

Your petitioner further sheweth, that the lands aforesaid have been surveyed to him in four surveys: one of seven thousand acres, lying, situate, and being between Cedar creek and Dunn's creek, on the north side of St. John's river; the first line of survey begins at a pine on Dunn's creek, and runs south 50° W. 440 chains to a pine on Big Cedar creek; second line formed and bounded by Big Cedar creek; third line, bounded by St. John's river; and the fourth line, formed and bounded by Dunn's creek to the beginning. Three thousand acres in another survey, situated on the north side of St. John's river, and on the east of the road to St. Mary's river, beginning at a pine, and running thence north 10° W. 160 chains to a pine; second line, south 80° W. 186 chains to a pine; third line, south 10° E. 160 chains to a pine; thence north 80° E. 186 chains to the beginning. Four thousand acres in another survey, situated on the south of Dunn's creek, that connects Dunn's lake with St. John's river, and at a place called Cabbage hammock, beginning at a pine, and running south 200 chains to a pine; second line, east 200 chains to a pine; third line, north 200 chains to a pine; and fourth line, west 200 chains to the beginning. And two thousand acres in another survey, situated west of the river St. John's, in Cedar swamp, at a place known under the name of Sugartown: first line, as per survey filed herewith, commencing at a red oak, and running north 31° W. 100 chains to a hickory; second line, thence N. 59° E. 200 chains to a red oak; third line, S. 31° E. 100 chains to a pine; and fourth line, S. 59° W. 200 chains to the red oak at the beginning. All of which aforesaid surveys, have been located on lands lying within the jurisdiction of this court.

Your petitioner further states, that his aforesaid claim, and the aforesaid surveys, have been filed before the board of commissioners appointed to ascertain claims and titles to lands in East Florida, who, as he is informed and believes, have refused to recommend the same to the favorable notice of the United States Government, and have rejected the same, but have not reported it forged or antedated. A copy of all which proceedings will be filed herewith, and prayed to be made a part of this petition, as Exhibit No. 2.

And your petitioner further alleges, that said grant, made to your petitioner as above set forth, has not been annulled by the late treaty between the United States and Spain, nor by the decree in ratification of the said treaty; but your petitioner is advised and believes, and alleges, and avers, that his grant aforesaid is good and valid, and invest him with an inchoate right to a fee simple estate in the lands in the grant granted; and that, by the

usages, customs, laws, and ordinances of the King of Spain, he is entitled to a fee simple estate as aforesaid; and, by the treaty between Spain and the United States, of the 22d February, 1819, the United States are bound to recognise and confirm to him his aforesaid title, in as full and ample a manner as he had and held the same, or could or ought to have had the same, under the Spanish Government, if that government were now exercising sovereign jurisdiction over this territory. Without this, the United States, as far as he knows, are the rightful claimants to said lands.

Your petitioner, in consideration of the premises, prays that this honorable court will take jurisdiction of this his petition; and that a copy hereof, and a citation to shew cause, &c., may be served on Thomas Douglas, Esq., United States district attorney for this district, pursuant to the provisions of the statute in such case made and provided; and, finally, that your honor will decree to your petitioner a confirmation of his title to the lands in this his petition claimed, and all such other and further relief, as in equity, &c. And your petitioner, as in duty, &c.

J. B. LANCASTER,
Attorney for J. Breward.

A copy of the foregoing petition, with a citation thereto annexed, was delivered to the marshal of this district to serve on the attorney of the United States for the same district; and the return of the said marshal thereon, is in the words and figures following, to wit:

"Executed 22d April, 1829, by serving a copy on Thos. Douglas, Esq., United States attorney.

"WATERS SMITH, *Marshal.*"

Answer of United States Attorney.

And afterwards, to wit, on the first day of May, in the year of our Lord one thousand eight hundred and twenty-nine, Thomas Douglas, Esq., United States attorney for the district of East Florida, brought, and filed in the clerk's office aforesaid, his answer to the said petition; which said answer is in the words and figures following, to wit:

SUPERIOR COURT, *May Term, in the year* 1829.

THE UNITED STATES OF AMERICA
ats.
JOHN BREWARD.

The answer of Thomas Douglas, United States attorney for the district of East Florida, to the petition or bill of complaint of John Breward. The said attorney, in the name and for and on behalf of the same United States, saving and reserving to them now, and at all times hereafter, all and all manner of benefit of exception to the manifold errors, defects and irregularities in the said petition or bill of complaint, contained for answer thereunto, or unto so much

thereof as it is material and necessary for them to answer unto, answereth, and saith:

That he has no knowledge of any such grant of lands having been made by Don Jose Coppinger, acting governor of the province of East Florida, on the twenty-fourth day of August, in the year eighteen hundred and sixteen, [or at any other time,] to the said John Breward, as is alleged, stated and described in the said petition or bill of complaint; nor of the building of the said mill, or the making of the surveys therein mentioned; and cannot, therefore, either admit or deny the same, but respectfully prays this honorable court to require of the said John Breward due proof thereof, and of all the matters and things in the said petition or bill of complaint thereof, alleged and set forth as they are therein stated, according to law and the usages of courts of equity.

And this respondent admits that the said John Breward did file his claim for said lands before the board of commissioners appointed to ascertain claims and titles to lands in East Florida, and that said board rejected said claim. But this respondent denies that the said grant is good and valid, or that it invests the said John Breward with an inchoate fee simple estate, or any other estate whatever, in said lands.

And this respondent farther avers that if any such grant of lands was ever made by the said Don Jose Coppinger, acting governor as aforesaid, to the said John Breward, it was made upon the representation of the said John Breward, to the said Don Jose Coppinger, acting governor as aforesaid, that he, the said John Breward, intended to establish a saw-mill thereon, in order to supply lumber to the use and commerce of the said province, and in consideration of the benefit and utility which the said governor believed, from the representations aforesaid, would redound to the improvement of said province, from the building of said saw-mill; which said mill, from the representations aforesaid, was to have been built upon a large and expensive scale, whereas this respondent says that in truth, and in fact, if any mill at all was built by the said John Breward, upon said lands, as in consequence of the grant thereof, it was a mere temporary establishment, and by no means such an one as the said John Breward was bound, by his representations aforesaid, to have built; and that the said John Breward has, by a total failure to keep said mill (if indeed any such was ever built) in operation for a long space of time, to wit, for the space of ten years past, wholly forfeited and lost all claim or title (if any he ever had) to the said lands and every part and parcel thereof.

And the said respondents, farther answering, say that the surveys in the said petition or bill of complaint mentioned, and the survey in the amendment to the said petition or bill of complaint mentioned, (if the same were ever made at all, which is not admitted,) were not, nor was either of them, made pursuant to the call or calls in the said supposed concession, and were not authorized thereby; and, farther, that the said surveys and each of

them (if made at all) were made since the 24th day of January, A. D. 1818, and that the same and each of them are therefore null and void.

And now, having fully answered all the matters and things in the said petition or bill of complaint alleged, the said attorney prays that the said United States may be hereof discharged, and their reasonable costs and charges by them, in and about the defence of this suit, paid, laid out, and expended, may be adjudged and decreed to them.

THOS. DOUGLAS,
United States Attorney, &c.

Replication.

And afterwards, to wit, on the seventeenth day of May, in the year of our Lord one thousand eight hundred and thirty-two, the said claimant, by his attorney, brought, and filed in the clerk's office aforesaid, his replication, which is in the words and figures following, to wit:

SUPERIOR COURT *for the Eastern District of Florida.*

JOHN BROWARD Complainant
vs.
THE UNITED STATES Defendant. } In Chancery.

Replication of the above complainant to the answer of the United States defendants.

This replicant, saving and reserving to himself all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto, saith that he will aver and prove his said bill to be certain, true, and sufficient in the law to be answered unto, and that the said answer of the said defendants is uncertain, untrue, and insufficient to be replied unto by this replicant—without that, that any other matter or thing whatsoever in the said answer contained, material, or effectual, in the law to replied unto, confessed or avoided, traversed or denied, is true; all which matters and things this replicant is and will be ready to aver and prove as this honorable court shall direct, and humbly prays as in and by his said bill he hath already prayed.

J. B. LANCASTER,
Solicitor for Complainants.

Leave to amend Petition and Answer.

And afterwards, before the superior court for the district of East Florida, holden at the court-house in the city of St. Augustine, at the term of July, in the year our Lord one thousand eight hundred and thirty-four, to which term this cause had come by regular continuance, to wit, on Wednesday the fifth day of said term and the

twenty-third day of said month, the following entry of record was made in this cause, to wit:

JOHN BREWARD
vs
THE UNITED STATES OF AMERICA. } Land Claim, 16,000 Acres.

This day came the parties by their counsel, and, on motion of the counsel for the said claimant, leave is given him to amend his petition; and, on motion of the counsel for the United States, leave is given them to amend the answer in this case.

Hearing of Cause.

And afterwards, at the same term of July, in the year of our Lord one thousand eight hundred and thirty-four, to wit, on Wednesday, the tenth day of said term, and the sixth day of the month of August, the following entry of record was made in this cause, to wit:

JOHN BREWARD
vs.
THE UNITED STATES OF AMERICA. } Land Claim, 16,000 Acres.

This day came, as well the counsel for the said claimant, as the counsel for the said United States, and this cause came on to be heard this day, and the petition of the said claimant, and the answer of the attorney of the United States thereto, together with the replication of the said claimant, were read to the court. The counsel for the claimant offered in evidence a certified copy by the keeper of the public archives of East Florida, of the original certified copy, by Thomas de Aguilar, of the memorial and grant in this case, together with a certified translation thereof, made by the translator and interpreter of this court; to the receiving of which in evidence, the counsel for the United States objected, and filed the following reasons therefor, to wit: 1st. Because the complainant has not, in his petition or bill of complaint, alleged or shown the loss of the said original, or in any way accounted for its absence or non-production. 2d. Because it is only the copy of a copy. 3d. Because the document from which it is taken has already been given in evidence in this case by the complainant. 4th. Because the document from which it is certified to be taken could not be received in evidence without support from collateral proof. 5th. Because the claimant has not proven the execution of the original from which the first copy was taken. 6th. Because the archives have been examined, and they furnish no proof that such an original ever existed. 7th. Because if such an original ever did exist, it should now be found in the office of the public archives. 8th. Because the absence of the original from the office where the laws and usage of Spain require it to be deposited, and where the laws of the United States now require all such documents to be kept, creates a strong presumption that no such original ever existed. 9th. Because the

original from which the first copy was taken, could not be received in evidence without support from collateral proof; which objections were overruled by the court, and the said document admitted in evidence, but subject to the opinion of the court as to its admissibility, after hearing the argument in this cause. The said claimant, by his counsel, then offered in evidence the survey to the claimants in this case, of seven thousand acres of land, which was received in evidence without objection from the counsel for the United States. The counsel for the said claimant then offered in evidence three other surveys in this case, one of 3,000 acres, one of 4,000 acres, and one of 2,000 acres; to the receiving of which in evidence, the counsel for the United States objected, and the objection was overruled by the court, and the said surveys admitted in evidence, but subject to the opinion of the court as to their admissibility, on hearing the argument in this cause. The counsel for the said claimant then offered in evidence a document purporting to be an original certified copy of a concession to John Breward, for the land claimed in this case, brought into court by the keeper of the public archives for East Florida, in obedience to a subpœna *duces tecum*, and is the same document exhibited and testified to by the said Antonio Alvarez on this day, as by his testimony appears; to the receiving of the said document in evidence, the counsel for the United States objected, and filed the following reasons therefor, to wit: 1st. Because the Spanish archives of the province among which the original concession should have been found, if any such ever existed, have been resorted to, and they afford no evidence that such an original ever did exist. 2d. Because the absence of the original from the office where the laws and usages of Spain required it to be deposited, and where the laws of the United States now require all such documents to be kept, [when unexplained,] creates a strong presumption that no such original ever existed. 3d. Because the absence of the original from the office assigned for it by law, is unexplained and unaccounted for. 4th. Because the complainant has not proven the execution of the original from which the copy is certified to have been taken. 5th. Because the original, if produced, could not be received in evidence without proving the signature of the governor, and a copy can never be admitted in evidence when the original, if produced, would require support from collateral proof. 6th. Because the copy cannot prove the signature of the governor to the original grant, if such original ever existed. 7th. Because to admit the copy in evidence, would be to allow it higher dignity and credit than the original; which objections were overruled by the court, and the said document admitted in evidence, but subject to the opinion of the court as to its admissibility, on hearing the argument in this cause. The claimant's counsel then read in evidence in this case, without objection from the counsel for the United States, two depositions of John L. Doggett, and the deposition of Isaiah D. Hart, John Houston, Charles Breward, Sarah Breward, and William J. Mills, taken

in this case; Antonio Alvarez was sworn as a witness in this case on the part of the said claimant, examined, and his testimony taken. And the counsel not being now prepared to proceed further in this cause, the further hearing thereof was postponed till to-morrow morning at 10 o'clock.

Hearing Continued and Case Submitted.

And afterwards, at the same term of July, in the year of our Lord one thousand eight hundred and thirty-four, to wit, on Thursday the eleventh day of said term, and the seventh day of the month of August, the following entry of record was made in this cause, to wit:

JOHN BREWARD
vs.
THE UNITED STATES OF AMERICA. } Land Claim, 16,000 Acres.

This day came as well the counsel for the said claimant, as the counsel for the said United States, and the court proceeded in the further hearing of this cause. The counsel for the United States offered in evidence the deposition of Antonio Alvarez, which was admitted and read in evidence, subject to the objection of the claimant's counsel. The counsel for the claimant offered in evidence in this case, without objection from the counsel for the United States, all the testimony taken in the case of Elizabeth Wiggins against the United States, on the part of the claimant, relating to the manner in which the papers belonging to the public archives were kept during the Spanish Government, and after the same came into the possession of the United States, under the agreement of counsel filed in said cause of Elizabeth Wiggins; and the counsel for the United States offered in evidence in this case, without objection from the counsel for the claimant, all the testimony taken in the said case of Elizabeth Wiggins, on the part of the United States, relating to the same subject, under said agreement. The counsel for the United States also offered in evidence a document in the case of Juan Russell, dated Havana, 4th March, 1815; to the receiving of which in evidence, the counsel for the claimant objected, and the objection was overruled by the court, and the said document admitted in evidence. And the evidence and testimony on both sides being concluded, and argument of counsel having been heard, as well on the part of the claimant as on that of the United States, this claim was submitted to the court for its decree therein.

Evidence and testimony offered and read in this cause at the hearing thereof; and numbered from one to — inclusive, to wit:

No. 1.

Memorial for Grant.

Offered and read on behalf of the Claimants.

TRANSLATION.

Memorial.

Senor GOVERNOR:

Don Juan Breward, an inhabitant of this province, with the most submissive respect to your excellency, says: That he intends to establish a mill to saw lumber for the supply of commerce and of the province, which he wishes to situate upon St. John's river, on the creek known by the name of Little Cedar creek; and whereas said costly fabric requires to secure in lands and timber what may be sufficient to cover the great expenses which are necessary to build it, and it being all for the benefit of the province; therefore he humbly prays your excellency will be pleased to grant him the usual five miles square of land or its equivalent, destining to him ten thousand acres in the neighborhood of said place, and the remaining six thousand acres in Cedar swamp, on the west side of St. John's river, and in Cabbage hammock, on the east side of said river. It is a favor which he hopes to merit from the justice of your excellency.

St. Augustine, Florida, twenty third of August, one thousand eight hundred and sixteen.

JUAN BREWARD.

Grant.

Decree.

St. Augustine, Florida, twenty-fourth of August, one thousand eight hundred and sixteen. In consideration of the benefit and advantages which ought to result in favor of the province if what the interested proposes is effected, the lands and permission which he solicits is granted to him without injury to third persons, but with the express condition that he shall not have the absolute right to them until he erects said machine, and not to prejudice him in the large expenditures which he prepares while he effects his building, no person shall defalcate any thing from this concession, and for his security let there be issued to him through the secretary's office the corresponding certificate.

COPPINGER.

Certificate of Aguilar.

Don Tomas de Aguilar, ensign of the army and secretary of the government of the city of St. Augustine and province of East Florida, by his majesty.

I do certify that the preceding copy is faithfully taken from the original which exists in the secretary's office under my charge, and in compliance with what is ordered I give the present in St. Augustine, Florida, twenty-fourth of August, one thousand eight hundred and sixteen.

TOMAS DE AGUILAR.

I certify the foregoing to be a true and correct translation of the Spanish document annexed.

JOS. S. SANCHEZ,
Intr. and Tr. Superior Court, E. D. F.

Testimony of Antonio Alvarez.

JOHN BREWARD
vs.
THE UNITED STATES. } Land Claim.

AUGUST 6th, 1834.

Antonio Alvarez sworn as a witness on behalf of claimant, in open court.

Upon the original certified copy by Tomas de Aguilar of the grant for the land claimed in this case, brought into court by the witness under a subpœna *duces tecum*, being presented to the witness, and he being asked whether the signature to that certificate is the signature of Tomas de Aguilar, witness states: That it is the signature of Tomas de Aguilar, who was secretary of the government of the province of East Florida at the time said certificate bears date. Witness states that it came into the office of the public archives from the office of the land commissioners.

And upon the certified copy of said certificate of Aguilar, and offered in evidence in this case, being shown to the witness, witness states: That it is a true copy of the original certificate of which he has just certified.

No. 2.

Certificate and Plat of Survey of 7,000 *Acres.*

Offered and read on behalf of the Claimants.

Being four certificates and plats of survey, the three latter of which objected to, at the hearing of the cause, by the counsel for the United States, and objections subsequently withdrawn.

Certificate and Plat of Survey of 4,000 *acres.*

TRANSLATION.

I, Don Jorge Clarke, captain of the northern district of East Florida, and commissioned surveyor general of said province, by the government thereof, do certify that I have surveyed and delineated for Don Juan Breward, four thousand acres of land, in Cabbage hammock, on the east part of the river St. John's, and south of the branch called Dunn's creek, which runs from Dunn's lake to the said river; said lands being the complement of sixteen thousand acres of land which were granted to him by the government, on the 24th August, 1816, for the erection of a saw-mill; and they are conform to the present plot, and to the original thereof, which I keep. Northern District, 19th April, 1820.

JORGE I. F. CLARKE.

[For plot, see original copy, p. 20.]

St. Augustine, 23d March, 1830. I certify that the preceding is a correct representation and translation of the Spanish document annexed.

A. GAY,
Translator and Intr. of the Superior Court.

No. 3.

Commission to examine Hart, Doggett, Houston, and Breward

Offered and read on behalf of Claimant.

TERRITORY OF FLORIDA.

In the name and by the authority of the United States of America, to William J. Mills, a Justice of the Peace in and for the County of Duval:

Whereas a certain cause is now depending in the superior court for the eastern district of Florida, in which said cause John Breward is claimant and the United States defendant, and it being necessary to the investigation of said cause to have the testimony of

Isaiah D. Hart, John L. Doggett, John Houston, Charles Breward, and Sarah Breward:

Know ye, that confiding in your prudence, ability, and integrity, you are, by these presents, appointed, and full power and authority are hereby given to you, diligently to examine the aforesaid witnesses upon certain interrogatories to be exhibited to you, as well on the part of the said plaintiff as on the part of the said defendant, or of either party in said cause; and therefore you are hereby authorized and requested, on a certain day or on certain days, and at a certain place or at certain places, to be appointed by you for that purpose, to cause the said witnesses to come before you, and then and there to examine each of them apart, on the said interrogatories, on their respective corporal oaths, or on their respective solemn affirmations, first taken before you, and to take such their examinations and reduce them to writing on paper; and when you shall have so taken them, to sign the same with your name, and enclose and seal the whole together, conformably to the instructions hereunto subjoined.

Witness the honorable Joseph L. Smith, judge of the superior court for the eastern district of Florida, the 23d [L. S.] day of October, in the year one thousand eight hundred and thirty, and in the LV year of the Independence of the United States of America.

GEORGE GIBBS, *Clerk.*

Instructions.

When the testimony is taken, the commissioner is required to sign his name at the bottom of each sheet of the depositions, and of the whole, after fixing and sealing the several sheets together; then to enclose the whole, examination, commission, and all, in an envelope, sealed up, with his name written on the outside, across the seals, and to endorse the packet on the corner thereof with the names of the parties, and to direct the same to George Gibbs, Esq., clerk of the superior court at St. Augustine, and put it in the post office, or deliver it to the agent or attorney of the party who obtained the commission.

Interrogatories.

JOHN BROWARD, Complainant, *vs.* THE UNITED STATES, Defendant. } In Chancery.

Interrogatories to be propounded to Isaiah D. Hart, John L. Doggett, John Houston, Charles Broward, and Sarah Broward; to be taken, by consent, before William J. Mills, Esq., a justice of the peace, residing in Duval county, and to be read in evidence in the above entitled cause, depending in the superior court for the eastern district of Florida.

First. Do you know the complainant in the above entitled cause?

Second. Have you, or either of you, any knowledge of the said complainant having a water saw-mill in East Florida? And, if so, state where, and when built.

Third. Do you, or any of you, know of said Breward's building, or causing to be built, a water saw-mill? And, if so, when, and at what place?

Fourth. Did not said complainant build said water saw-mill at great expense? And, as nearly as you can estimate, at what expense? And did you, or any of you, ever purchase sawed lumber cut at said mill?

Fifth. Have any of you ever acted as agent of the said complainant, in selling lumber cut at said water saw-mill?

Sixth. Was said mill built during the time of the Spanish Government in Florida, or since the transfer of the sovereignty to the United States?

Seventh. When did you, or any of you, first hear or know of the said complainant, John Breward, having obtained a Spanish mill grant? State, as near as you can remember, the precise time?

Eighth. State any other information you may have which will benefit the complainant in the above cause.

JOS. B. LANCASTER,
For Complainant.

Cross interrogatories to be propounded to the above named witnesses, on the part of the United States.

First. If you state that the said complainant, John Broward, ever built a water saw-mill in East Florida, please to state when it first went into operation, and how long it continued in operation; and, particularly, whether it was built upon the tract of land claimed by said complainant as a mill grant; whether the said mill was a strong and substantial, or a mere temporary one; how much lumber it calculated to saw in a day; and whether or not it is now in operation.

Second. Please to state what is the quality of the tract of land claimed by said complainant as a mill grant; what portion of it is fit for cultivation; what portion of it is hammock, and what portion is pine land. Had it ever any live oak timber on it? If it had, please to state what quantity.

Third. Has or has not the said complainant sold a quantity of live oak timber off said tract of land? If he has, please to state when, and to whom, and the quantity and value thereof?

Fourth. How much live oak timber is there now standing on said land? Please to state the quantity and value thereof, as near as you can.

Fifth. Please to state how and from whom you heard of the said complainant's having obtained a Spanish mill grant. Did you hear it from any one but himself, or some one of his family? If you did, please state from whom and when, &c.

Sixth. Are or are not Charles Broward and Sarah Broward near connections of the said complainant? If they are, please to state their relationship.

Seventh. If you know of any other matter or thing which may be of service to the said Uuited States upon the trial of this cause, please to state them as fully and particularly as though you were now thereunto especially interrogated.

THOS. DOUGLAS,
United States Attorney for East Florida.

Answers of Charles Breward.

JOHN BROWARD, Complainant
vs.
THE UNITED STATES.

The undersigned justice of the peace, having caused Charles Broward, one of the witnesses named in the annexed interrogatories, to come before him, who after being duly sworn true answers to make, answers as follows, viz:

To the first interrogatory, the witness answers. Yes.

To the second interrogatory, the witness answers, that John Broward, the complainant, has a water saw-mill in East Florida, in Duval county, on Little Cedar creek; which said mill was built in 1819.

To the third interrogatory, the witness answers, that John Broward built said water saw-mill at the place and time mentioned above.

To the fourth interrogatory, the witness answers, that he cannot say at what expense, but he knows John Broward was at great inconvenience, owing to the situation of the country; having, on one occasion, to witness' knowledge, to abandon the place with his hands, owing to a banditti having come from St. Mary's river to make an attack on him; and also from his being frequently called from his business to attend to his official duties as a magistrate.

To the fifth interrogatory, the witness answers. No.

To the sixth interrogatory, the witness answers, during the time of the Spanish Government.

To the seventh interrogatory, the witness answers, that he believes in 1816. Witness having recommended John Broward to apply for the place granted, as being suitable for a mill, and having afterwards assisted the surveyor to survey the land a short time after the grant was made.

To the eighth interrogatory, the witness answers, that the complainant completed said saw-mill, and sawed lumber with it for home consumption and for exportation; part of a vessel's cargo having been shipped to St. Thomas from said saw-mill.

To the first cross interrogatory, the witness answers, that said saw-mill went into operation in 1820, and continued so for five years

after; said mill was built on the tract claimed by the above mentioned grant, was a strong and substantial one, and would cut, as witness supposes, one thousand feet per day.

To the second cross interrogatory, the witness answers, that said tract consists of pine land and a small portion of hammock, but a very small part of it fit for cultivation; had a small quantity of live oak on it.

To the third cross interrogatory, the witness answers, that the said complainant has sold some live oak from said land, but knows not the quantity or the value. It was sold to Mr. Seabury, as he was informed, and to Cobb & Carelton, as he is informed.

To the fourth cross interrogatory, the witness answers, that he cannot tell.

To the fifth cross interrogatory, the witness answers, that he saw the grant at the time it was granted, and heard of it from complainant.

To the sixth cross interrogatory, witness is a brother of complainant, and Sarah Broward his mother.

To the seventh cross interrogatory, witness answers, that he knows nothing further.

CHAS. BROWARD.

Answered, sworn and subscribed to before me, this 27th October, 1830.

W. I. MILLS,
Justice of the Peace.

The Answers of John Houston.

JOHN BROWARD Complainant
vs.
THE UNITED STATES.

The undersigned justice of the peace, having caused John Houston, one of the witnesses named in the annexed commission, to come before him, who after being duly sworn true answers to make to the interrogatories thereto annexed, answers as follows:

To the first interrogatory, the witness answers. Yes.

To the second interrogatory, the witness answers, that said complainant has a water saw-mill in East Florida, on Little Cedar creek, waters of St. John's river, the place now occupied by said complainant; which said saw-mill was built in 1818 or 1819, by him, said complainant.

To the third interrogatory, the witness answers, that said Broward did build said water saw-mill at the time and place before mentioned.

To the fourth interrogatory, the witness answers, that he does not know at what expense the said mill was built, but it must have cost

the complainant considerable expense. Witness has purchased sawed lumber cut at said mill in 1820 and 1821.

To the fifth interrogatory, the witness answers. No.

To the sixth interrogatory, the witness answers, that said saw-mill was built during the time of the Spanish Government.

To the seventh interrogatory, the witness answers, that he heard of said complainant, John Breward, having obtained a Spanish mill grant in 1816 or 1817, at which time he heard of its being surveyed.

To the eighth interrogatory, the witness answers, that the country was during the years before mentioned, in so disturbed a state, that the complainant, John Breward, was in considerable danger in settling on said mill grant and in building said water saw-mill when he did.

To the first cross interrogatory, the witness answers, that said saw-mill went into operation in 1819, and continued so for some years; it was built on said mill grant; was a strong and substantial one; does not know how much lumber it would saw in a day.

To the second cross interrogatory, the witness answers, that the land within said tract is pine barren; a small portion, not exceeding one hundred acres, of inferior hammock; the hammock may be fit for cultivation. Does not know how much live oak timber was on it.

To the third cross interrogatory, the witness answers, that he does know.

To the fourth cross interrogatory, the witness answers, that he does not know.

To the fifth cross interrogatory, the witness answers, that it was a matter of public notoriety, that said complainant had such a grant in 1816, or '17, as before stated.

To the sixth cross interrogatory, the witness answers, that Charles Broward is a brother to complainant, and Sarah Broward, his mother.

To the seventh cross interrogatory, the witness answers, that he knows nothing further of service to the United States in this cause.

JOHN HOUSTON.

Answered, sworn, and subscribed before me, this 28th October, 1830, "1818," being first interlined in the answer to the second interrogatory.

W. I. MILLS,
Justice of the Peace.

Answers of Sarah Breward.

Sarah Breward, one of the witnesses named in the annexed commission, being duly sworn true answers to make to the interrogatories, answers as follows, viz:

To the first interrogatory the witness answers. Yes.

To the second interrogatory the witness answers, that John Broward, had a water saw-mill on Little Cedar creek, Duval county, East Florida, which was built in 1819.

To the third interrogatory the witness answers, that John Breward, did build a saw-mill at the place and at the time mentioned in the preceding interrogatory.

To the fourth interrogatory the witness answers, that John Broward, did incur considerable expense in building said mill, the amount not known.

To the fifth interrogatory witness answers. No.

To the sixth interrogatory witness answers, that said mill was built during the time of the Spanish Government, in Florida.

To the seventh interrogatory witness answers, that John Broward, obtained said mill grant from the Government of Spain, in 1816, to the best of her recollection.

To the eighth interrogatory the witness answers, that John Broward sawed lumber at said mill, and sold a great deal for home consumption, previous to the change of government in 1821; this witness resided at said place with John Breward, who has occupied said mill tract since 1819, and now resides there.

To the first cross interrogatory the witness answers, that the said mill went into operation in 1819, and continued in operation for several years, this witness having resided four years with John Broward at said mill, and that it has continued in operation since it was built on the tract of land claimed by said Breward as a mill grant; was a strong and substantial building, and has heard that it would saw eleven hundred or more feet of lumber in a day.

To the second cross interrogatory the witness answers, that it is pine land, except a very small quantity of hammock.

To the third cross interrogatory the witness answers, that she does not know any thing about it.

To the fourth cross interrogatory witness answers, that she does not know.

To the fifth cross interrogatory, witness answers, that John Breward, on his return from St. Augustine, in 1816, as before stated, shewed her his grant for said mill tract, and said land a short time afterwards was surveyed by Mr. Garvin, the deputy of Mr. George I. F. Clarke, the surveyor general.

To the sixth cross interrogatory, the witness answers, that she is the mother of John Broward, and that Charles Broward is his brother.

To the seventh cross interrogatory, the witness answers, nothing further.

SARAH BROWARD.

Answered, sworn and subscribed before me, this 28th October, 1830.

W. I. MILLS, *Justice of the Peace.*

Answers of I. D. Hart.

Isaiah D. Hart, being first duly sworn, true answers to make to the annexed interrogatories, answers as follows:

To the first interrogatory, the witness answers. Yes.

To the second interrogatory, the witness answers, that said complainant has a water saw-mill in East Florida, on Cedar creek.

To the third interrogatory, the witness answers, that he has seen said saw-mill on the complainant's place, and always understood it had been built by him.

To the fourth interrogatory, the witness answers, that he does not know at what expense said mill was built; witness has purchased lumber cut at said saw-mill from the complainant.

To the fifth interrogatory, the witness answers, that he has acted as agent (in selling lumber cut at said mill,) for the complainant.

To the sixth interrogatory, the witness answers, that he does not know.

To the seventh interrogatory, the witness answers, that he does not recollect.

To the eighth interrogatory, the witness answers, that he knows nothing further.

To the first cross interrogatory, the witness answers, that he does not know when said mill went into operation, nor how long it continued so, nor whether it was built on said tract of land; it appeared when witness saw it to be a strong and substantial building; does not know how much lumber it was calculated to saw in a day.

To the second cross interrogatory, the witness answers, that he knows nothing about it.

To the third cross interrogatory, witness answers, that he does not know.

To the fourth cross interrogatory, the witness answers, that he knows nothing about it.

To the fifth cross interrogatory, the witness answers, that he does not recollect from whom he heard of said grant, nor at what time.

To the sixth cross interrogatory, the witness answers, that Charles Broward is a brother, and Sarah Broward, the mother of said complainant.

To the seventh cross interrogatory, the witness answers, that he knows nothing further.

I. D. HART.

Answered, sworn and subscribed before me, this 29th October, 1830.

W. I. MILLS, *J. P.*

Answers of John L. Doggett.

John L. Doggett, one of the witnesses named in the annexed commission being first duly sworn, true answers to make to the annexed interrogatories, answers as follows:

To the first interrogatory, the witness answers. Yes.

To the second interrogatory, the witness answers, that said complainant has a water saw-mill in East Florida, on a creek commonly known as Cedar creek, but does not know when built.

To the third interrogatory, the witness answers, that he always understood that said Broward did build said saw-mill according to general report.

To the fourth interrogatory, the witness answers, that he cannot say what expense was incurred in building said mill, but from having often viewed the work, is of opinion that a considerable expense must have been incurred; witness has purchased a considerable quanty sawed lumber of I. D. Hart, agent of John Broward, which he believes to have been cut at said mill by common report.

To the fifth interrogatory, the witness answers, that he did in 1823, sell a lot of sawed lumber for I. D. Hart, which was part of the lumber which said Hart had in charge as agent for John Broward.

To the sixth interrogatory, the witness answers, that he commenced business in Jacksonville, in March, 1823, and at that time said mill was said to be in operation; does not know the precise time when said mill was built.

To the seventh interrogatory, witness answers, that he thinks he first heard of said grant in 1824; is not positive.

To the eighth interrogatory, witness answers, that said Breward has, on the said tract of land occupied by him, and claimed through a mill grant, in addition to said saw-mill, a very good dwelling house and out buildings.

To the first cross interrogatory, the witness answers, that he does not know when said mill went into operation, nor how long it continued so; it is built on the tract of land claimed as the mill grant by common report. It had a single saw, and for a mill of that gear, was a good and substantial one. It might saw about a thousand feet per day. It is not now in operation.

To the second cross interrogatory, the witness answers, that the said tract is generally pine barren, interspersed with small live oak hammocks on the margin of the creek. The hammock may probably be about one hundred acres. Does not know what quantity of live oak there was on it, but it was not heavily timbered.

To the third cross interrogatory, the witness answers, that he has heard that the complainant sold some live oak to Seabury and Brown; does not know the quantity. Also some to Cobb & Carleton, quantity not known.

To the fourth cross interrogatory, the witness answers, that he does not know.

To the fifth cross interrogatory, the witness answers, by the seventh direct interrogatory.

To the sixth cross interrogatory, the witness answers, that Charles Broward is a brother, and Sarah Broward, the mother of said complainant.

To the seventh cross interrogatory, the witness answers, nothing further.

JNO. L. DOGGETT.

Answered, sworn, and subscribed before me, this 29 October, 1830.

W. J. MILLS,
Justice of the Peace.

No. 4.

Commission to Examine Doggett and Mills.

Offered and read in behalf of the Claimant.

TERRITORY OF FLORIDA.

In the name, and by the authority of the United States of America, to Isaiah D. Hart and Samuel L. Burritt, Esquires.

Whereas a certain claim to land is now depending in the superior court for the eastern district of Florida, in which said claim John Broward is claimant, and the United States of America defendant, and it being necessary to the investigation of said cause to have the testimony of John L. Doggett and William I. Mills, the said Isaiah D. Hart, and Samuel L. Burrit having been named by the said claimant and the said defendant, as commissioners to examine said witnesses on certain interrogatories.

Know ye, that, confiding in your prudence, ability, and integrity, you are, by these presents appointed, and full power and authority are hereby given to you, diligently to examine the aforesaid witnesses upon certain interrogatories to be exhibited to you, as well on the part of the said claimant, as on the part of the said defendant, or of either party in said cause; and therefore, you are hereby authorized and requested, on a certain day or on certain days, and at a certain place or at certain places, to be appointed by you for that purpose, to cause the said witnesses to come before you, and then and there to examine each of them apart on the said interrogatories, or their respective corporal oaths, or on their respective solemn affirmations, first taken before you, and to take such their examinations, and reduce them to writing on paper; and when you shall have so taken them, to sign the same with your names, and enclose and seal the whole together, conformably to the instructions hereunto subjoined.

And you are hereby further requested, that before you act in or be present at the swearing or solemn affirming and the examining of the said witnesses, you do severally make oath, or solemn affirmation, that according to the best of your knowledge, you will truly, faithfully, and without partiality to any or either of the parties in said cause, take the examination and deposition of every witness produced and examined by virtue of this commission, upon the interrogatories hereunto annexed and produced to you; and that you will not publish or

make known to any person whomsoever, except the clerk or clerks who may by you be employed and sworn to secresy in the execution of this commission, the contents of any of the depositions of the witnesses to be taken by you in this commission named, until publication shall pass by rule or order of the said superior court.

Witness the honorable Robert R. Reid, judge of the superior court for the eastern district of Florida, this 22d [L. S.] day of July, in the year one thousand eight hundred and thirty-four, and in the LIX year of the Independence of the United States of America.

K. B. GIBBS, *Clerk*.

Instructions.

When the testimony is taken, the commissioners are required to sign their names at the bottom of each sheet of the depositions, and of the whole after fixing and sealing the several sheets together, then to enclose the whole, examination, commission and all, in an envelope sealed up, with their names written on the outside, across the seals, and to endorse the packet on the corner thereof with the names of the parties, and to direct the same to Kingsley B. Gibbs, Esq., clerk of the superior court, at St. Augustine, and put it in the post office, or deliver it to the agent or attorney of the party who obtained the commission.

Interrogatories.

SUPERIOR COURT, *East Florida*.

JOHN BROWARD *vs.* THE UNITED STATES. } Land Claim, &c.

Interrogatories to be propounded to John L. Doggett, Esquire, and William I. Mills, Esquire, witnesses to be produced, sworn and examined in the above named cause, in behalf of the complainant, before commissioners, according to law.

First. Do you or not know the tract of land claimed as a mill grant by the claimant? If you say aye, state where it lies. If you say it lies in part northwardly of the St. John's river, and upon Little Cedar creek, state whether or not you knew a saw-mill formerly built upon the tract at Cedar creek by the claimant, and whether that mill has since been rebuilt by the claimant?

Second. If you say, in answer to the preceding inquiry, that the mill has been rebuilt, state how many years since it was rebuilt, and how long since it has been in operation?

Third. Please state whether it continues still in operation, and in good condition?

Fourth. Have you, at any time, and if so, have you lately, purchased lumber from said rebuilt mill?

Fifth, proposed to William I. Mills. Are you inspector of lumber for Duval county; is said mill situate in said county? If you say aye, state whether you have inspected lumber sawed at said rebuilt mill; and if so, whether repeatedly within the last three or four years.

Sixth, proposed to both witnesses. If you know of any other matter or thing material to the claimant in regard to his claim, or to the opposite party, please state it as particularly and fully as if you were specially thereto interrogated.

JOS. L. SMITH,
For Claimant.

Cross-interrogatory. If you answer that you are acquainted with the tract of land claimed as a mill grant by the claimant, and that said tract lies in part northwardly of the river St. John's, on Cedar creek, please to state, as nearly as you can, how far it is from the tract on Cedar creek to a place called Cabbage hammock, on the east of the St. John's, and south of the branch called Dunn's creek, which runs from Dunn's lake to the river St. John's; state, also, how far it is from the tract on Cedar creek to a tract of three thousand acres, situated east of the royal road leading from the St. John's river to the river St. Mary's, on an arm of Trout creek; and also how far it is from the tract on Cedar creek to a place called Sugartown, in Cedar hammock.

R. C. ALLEN,
For the United States.

Answers of W. I. Mills.

SUPERIOR COURT, *East Florida.*

JOHN BROWARD
vs.
THE UNITED STATES.

The undersigned commissioners, having caused William J. Mills, one of the witnesses named in the annexed interrogatories, to come before them, who, after being duly sworn true answers to make thereunto, answers as follows:

First interrogatory. Witness answers, that he knows the said tract of land situated on the north side of St. John's river; it lies, in part, on Little Cedar creek, and partly on north side of Trout creek. I knew the saw-mill which was formerly built at Cedar creek by the claimant, Breward; and said mill has since been rebuilt by him, the said claimant.

Second interrogatory. Witness answers, that it is three years since the said mill was rebuilt; and the said mill has been in operation since that time, up to the present.

Third interrogatory. Witness answers, yes, it does.

Fourth interrogatory. Witness answers, he has not purchased any for himself, but has been there to procure it for other persons.

Fifth interrogatory. Witness answers, he is inspector of lumber for Duval county; and the mill is situated in said county. He has repeatedly inspected lumber sawed at said mill within the last three years.

Sixth interrogatory. Witness answers, he knows nothing further.

First cross-interrogatory. Witness answers, that the said tract of land is situated on Cedar creek, on the north side of St. John's river, in the county of Duval, about twelve miles from St. John's bar, and about three miles west from Dunn's creek, which said Dunn's creek does not run from Dunn's lake, as intimated in said interrogatory. It is about four or five miles from the Cedar creek tract to the tract of three thousand acres on Trout creek, as described. Witness knows no place in the territory called Sugartown.

W. J. MILLS.

Answered, sworn, and subscribed to, before us, this 25th day of July, 1834.

S. L. BURRITT,
J. D. HART,
Commissioners.

Answers of Jno. L. Doggett.

JOHN BROWARD
vs.
THE UNITED STATES.

The undersigned commissioners, having caused John L. Doggett, one of the witnesses named in the annexed interrogatories, to come before them, who, after being duly sworn true answers to make thereunto, answers as follows:

First interrogatory. Witness answers, that he knows said tract of land: it lies upon Cedar creek, and upon the north side of St. John's river. Was there sometime in the year 1823, and saw a saw-mill there, at that time, built upon the creek known as Cedar creek; said mill has since been rebuilt; believes it was rebuilt in the year 1831; said mill was built and rebuilt by the claimant, Breward.

Second interrogatory. Witness answers, said mill was rebuilt in 1831, and has been in operation since that time.

Third interrogatory. Witness answers, yes, it does.

Fourth interrogatory. Witness answers, yes.

Sixth interrogatory. Witness answers, he knows nothing further.

First cross-interrogatory. Witness answers, he knows of no place called Cabbage hammock, near Dunn's creek; neither does he

know any lake near Dunn's creek; knows nothing of the distance referred to, or the tract of land referred to.

JNO. L. DOGGETT.

Answered, sworn, and subscribed to, before us, this 25th day of July, 1834.

S. L. BURRITT,
J. D. HART,
Commissioners.

No. 5.

SUPERIOR COURT, *East Florida.*

JOHN BROWARD
vs.
THE UNITED STATES. } Land Claim.

Testimony of witnesses taken in the case of Elizabeth Wiggins *vs.* the United States, so far as the same relates to the manner of keeping the office of the public archives, before and after the cession, offered and read in this case at the hearing thereof, under the agreement of counsel filed in said case of Wiggins, to wit:

Testimony of Joseph S. Sanchez.

Of Joseph S. Sanchez.

Joseph S. Sanchez, sworn as a witness in open court on behalf of the claimants, states, that he was here in 1821, at the time of the cession of this country to the United States, and that he has not been away from here, except once that he went to the Havana, and several times to Tallahassee as a member of the Legislative Council, and that he was here in 1822 and '23. Witness states that at the time of the session of this country there was a good deal of fear that the original papers might be lost. The United States took possession of these papers in a very tumultuous manner. Witness states that he recollects that one Law had charge of these papers, and thinks he took charge of them a short time after they were taken out of the hands of the Spanish authorities. They were kept by Mr. Law in the hall under the room now occupied as a court room, and witness does not recollect that they were kept any where else by him. Witness states that he was in the habit of going in the office of the archives while Mr. Law had charge of it for four or five months morning and evening. Witness had an aequaintance in that office, a Mr. Cavedo. Witness thinks there were a few temporary shelves put up in this room spoken of by him, but does not know whether these shelves were sufficient for all the papers in the office or not. There were some bundles of papers on the table, and some in some boxes in the room. Witness did

not think at the time that these papers were kept carefully. Witness has seen papers blown from the bundles over the room; many of the bundles of papers were kept loose. Witness states, that he don't know that Mr. Law was at all precise as to the persons he permitted to come into the office. Witness saw a good many persons in the office. Witness states, that he has been several times in the office, and found neither Mr. Law or his deputy; and the windows and doors both open. Witness states, that this office was kept in such a manner that nothing could be more easy than to abstract, or take from it, documents, if persons felt disposed to do so. Witness says, that this office was kept very carelessly; very much so, indeed. Witness states, that the manner in which this office was kept was a matter of anxiety and alarm to the inhabitants of this place; and he has heard persons, interested in land claims, express their alarm that their papers might be lost from this office. Witness states, that he cannot say by what authority these papers came into the possession of Mr. Law, whether they came into his possession in virtue of his office as alcalde of this city, or not; and has never heard that he was under any pecuniary responsibility for the safe-keeping of these papers. Witness states, that he thinks a Mr. Penn, who is now dead, had something to do with these papers, but whether as Mr. Law's deputy or not, he does not know. Witness knows that these papers were in the possession of Mr. Geo. Gibbs and Mr. Tingle together, at one time, and believes that neither Mr. Gibbs or Mr. Tingle understood the Spanish language. Witness states, that the original memorials and decrees were kept in separate sheets of paper filed away in bundles, in which way he thinks they are kept now. Witness states, that he thinks, in one or two instances, he has seen persons searching for papers in the office of the archives, while that office was kept by Mr. Law, which persons were not in any manner connected with the office; and, that, during the time these persons were thus searching, neither Mr. Law or his deputy were present. Mr. Medicis, who is now dead, was one of the persons he saw thus searching for papers in this office. Witness states, that he believes that concessions and decrees for land were kept in the Spanish government's secretary office upon loose sheets of paper, filed away in bundles. Witness states, that he thinks that it would have been perfectly easy for these persons that were examining the papers in Mr. Law's office, to have abstracted them from that office if they thought proper, there was nothing to prevent it.

Examined by United States Attorney.

Witness states, that he thinks that he has picked up, in Mr. Law's office, some grants of land which were blown from the bundles in the office across the floor; there were some bundles of papers in some boxes which were without tops, but the principal part of the papers in this office were kept on open shelves, (when witness

speaks of the principal of the papers, he does not mean the principal part of the grants, but the principal part of the bundles of papers in the office.) Witness does not know whether all the papers received from the Spanish Government were in this office of Mr. Law's, or not; but he did not think there were as may papers in this office as he had seen in boxes when they were taken from the Spanish Government. Witness saw the boxes with papers in Mr. Law's office; these boxes were about four feet in length, and about three feet wide, and two feet high; these boxes were not quite half full of papers. Witness can't say that the grants and concessions in this province would contain more paper than he saw in these two boxes. Witness did not see these papers that he found on the floor of Mr. Law's office, blown from the shelves; there was nobody in the office when he found them, he merely found them on the floor, and supposed they were blown from the shelves, but they may have been blown from the table. Witness states that the grants of land which were in this office were in bundles, but the strings of some of these bundles were loose, and the papers perfectly unconfined; some of the bundles had been opened in looking for papers, and had not been tied up again; witness saw them in that situation several times. Witness was in the office every day. Witness does not remember to have seen Mr. Law in the office except when he came to sign papers which had been copied by his clerk, Mr. Cavedo. Witness has been in the office several times and found neither Mr. Law nor Mr. Cavedo there. Witness says that he don't recollect whether Mr. Cavedo was in this office at the time he picked those papers off the floor; he has several times picked up papers from off the floor, when no one was in the office; and sometimes, when he came to the office and found papers throwing about in this way, Mr. Cavedo was there. Witness states, that when he went into Mr. Law's office, and found no one there, he did not remain there long before Mr. Cavedo came in, some eight or ten minutes; and witness supposes that the way that the office came to be alone was, Mr. Law would come into the office, not more perhaps than once a week, to sign copies of papers that had been made out by Mr. Cavedo, and having signed the copies would retire, leaving the doors and windows open. Witness states that the windows were used as much as a place of entrance as the door, and witness has entered the office through the windows very frequently; the door was in the yard, and the people did not take the trouble to go round to it. Witness found the door closed sometimes, but it was barely pulled to. Witness states that there were two windows in this office that opened into the street, and the door from this office opened into the yard under the piazza. Witness states that he thinks when Mr. Cavedo left the office, to be absent for any length of time, he always fastened the door and windows as well as they could be fastened. The window shutters were very old, and any person could have pulled them open by putting their fingers between the shutters. Witness states that he

does not know that these papers that he saw blowing about the office were papers that Mr. Cavedo had copied; they were such papers as he usually copied; they might have been papers which he copied, or they might have been blown off the shelves. Witness states that he does not know that Mr. Medicis, that he saw in Mr. Law's office, was an associate of either Mr. Law or Mr. Cavedo; he does not know that he was acquainted with Mr. Law, and was not intimate with Mr. Cavedo; witness don't know what he was searching for.

The counsel for the United States objected to all the testimony of this witness, relating to the manner in which the papers in the office of the archives were kept; and objection overruled by the court.

Testimony of Zephaniah Kingsley.

Of Zephaniah Kingsley.

Zephaniah Kingsley, sworn as a witness on behalf of the claimant.

Question. Are you acquainted with the manner in which the public office of the archives was kept after the cession?

Answer. Only transiently, when I came to town. I was never employed in the office.

Question. Be pleased to state how said office was kept, so far as came under your knowledge; whether with care or otherwise?

Answer. My impression was, that it was not kept with care; there was no head to it.

Question. Were you ever in the office while kept by Mr. Edmund Law?

Answer. I was in it once or twice while he was keeper, during his absence, when he was away at the North; I believe it was two years after the change of flags, before there was a regular keeper of the archives.

Question. Were the papers kept on shelves, or how were they kept?

Answer. As far as I observed, they were kept in the greatest confusion; it appeared to me to be a resort for boys smoking segars, and idle people.

Question. Was there or not great apprehension entertained by the Spanish inhabitants, for the safety of the titles, immediately after the cession?

Answer. I heard a general expression of that sort amongst all the people, and had a great deal of fear myself.

Question. Did or did not that fear result from the manner in which the office of the public archives was kept for some time after the cession?

Answer. It did.

Question. Where was the said office kept at the time to which you have reference?

Answer. In the room under the one now occupied as a court room.

Question. Was or was not the papers of the said office scattered about the office and loose upon the table and shelves?

Answer. They were generally in great disorder; they were not in any regular order.

Question. Could or could not any paper have been abstracted from the said office, if any person had been disposed to do so?

Answer. It was my impression that they could, and it was the general report that persons that had cases in the courts here at that time, helped themselves, and some of these papers were found among the effects of deceased persons.

The counsel for the United States objected to all the testimony of this witness as to rumor or report, and objection sustained by the court, but testimony incorporated in the record to be reviewed in case of appeal.

Question. Do you or not consider from the manner in which this office was kept, that papers belonging to it were liable to destruction and loss, as well as abstraction?

Answer. My opinion is, that any thing could be done in it. I do consider that they were liable to destruction as well as abstraction.

The counsel for the United States objected to the foregoing question, and objection overruled by the court.

The counsel for the United States objected to all the testimony of this witness, relating to the manner in which the papers in the office of the archives were kept, and objection overruled by the court.

Examined by United States Attorneys.

Question. How long was Mr. Law keeper of the archives?

Answer. I am not able to say exactly; I think it was about two years from the time of the change of flags, till there was a regular keeper.

Question. Who was the first regular keeper?

Answer. My impression is that Mr. Reynolds was the first regular keeper.

Question. Was not Mr. Cavedo present on those occasions when you visited the office?

Answer. I am not able to charge my memory as to any particular individual that was present; there appeared to be no regularity, and only a parcel of boys.

Question. You know Mr. Cavedo personally, and that he was a clerk of Mr. Laws?

Answer. I know Mr. Cavedo personally, but I did not know him to be a clerk of Mr. Law.

Question. How often were you at the office?

Answer. Two or three times.

Question. What were the evidences of disorder you saw in the manner of keeping the office?

Answer. The papers lying about in disorder, and some of them in piles on the floor.

Question. Were not the persons whom you saw in the office engaged in examining papers?

Answer. No; I did not perceive that they were; they appeared to be playing or amusing themselves. I did not see any employed in an official capacity.

Question. How were they playing or amusing themselves?

Answers. The same as boys usually do; smoking segars and fun.

Question. Were they small boys you saw smoking segars?

Answer. No; they were ordinary sized boys; some of them stout young men.

Question. Do you recollect the names of any of the young men or boys?

Answer. I cannot charge my memory with the names of any of them.

Question, How many persons did you find in the office?

Answer. I am not able to say.

Question. Do you recollect any impropriety or disorder of conduct among the persons you saw there?

Answer. I did not; no more than young men usually would; I saw no impropriety.

Testimony of John M. Fontane.

Of John M. Fontane.

John M. Fontane, sworn as a witness in open court on behalf of the claimants.

Question. Do you or not remember the time when the papers belonging to the office of the public archives of East Flordia, were delivered to Mr. Reynolds?

Answer. I do not recollect the exact time; I believe about the year 1823.

Question. By whom were they delivered to Mr. Reynolds?

Answer. I do not recollect by whom they were delivered; it runs in my mind that Mr. Geo. Gibbs had something to do with them. I believe he was appointed one of the commissioners to take an inventory of them.

Question. Were you or not employed as a clerk in the taking the inventory of these grants?

Answer. I was.

Question. In what state or condition were the papers found, on your entering on the making of this inventory; did they appear to have been previously regularly and carefully kept, or otherwise?

Answer. They were far from being regularly kept; they did not appear to have been carefully kept; they were all over the room; a good many of the papers were not alphabetically arranged, and they were scattered and mixed.

Question. Were the papers found on shelves or scattered and loose over the room ?

Answer. I don't recollect at this time whether any of them were on shelves, or not, they were scattered about the room. I don't recollect if there were any shelves, and if there were any, I don't think there were more than two or three. I recollect seeing bundles on the floor.

Question. Were the bundles generally fastened or were they loose and open ?

Answer. Some of them were fastened and a great many loose. The memorials and decrees were all on loose sheets of paper.

Question. In what place were these papers found, on your entering on the duty of making this inventory ?

Answer. In this house, in the large room below.

Question. Are or are not royal titles bound together in books; and were they not so in Spanish times ?

Answer. Yes. I have seen royal titles, bills of sale, and mortgages bound together in large books. I have also seen some dozen or more, stitched together and indexed at the back.

Question. How do you account for the different manner of keeping those royal titles ?

Answer. The way I account for the different manner in which they were kept is, when there was a sufficient number of small bundles stitched together, they were made into a large book.

Question. Were or were not the door and windows of the room in which you found these papers secure and safe, or in what condition were they at that time ?

Answer. Not much better than they are now; if any thing, worse. I do not recollect particularly the condition of the room. There is a new door to it now, which was not there then.

Question. When these papers were taken charge of by the commissioners as stated by you, were they not in such a situation as to be extremely liable to loss, to destruction, or to be taken from the office by any one disposed to take them ?

Answer. I think that any one could have free access to the office. I have gone by it frequently and seen the front windows open, and no one in the office. This was before the commissioners had charge of these papers.

The counsel for the United States objected to all the testimony of this witness relating to the manner in which the papers in the office of the archives were kept, and objection overruled by the court.

Examined by United States Attorney.

Question. In speaking of the manner in which the archives were kept by Mr. Law, you have said that any one might have had free access to the office; that you frequently went by and saw the front windows open, and there was no one in the office. Could not the royal titles have been taken out as well as the concessions ?

Answer. Any paper could be taken out with the same facility. A bundle could be taken out, and a big bundle as easy as a small one, except that a person might hide a paper, and it would not be so easy to hide a bundle.

Question. Were not the bundles in which the concessions were put up larger and more difficult to remove than the sheets of paper stitched together on which the royal titles were written?

Answer. These memorials and decrees were generally in bundles, but on loose sheets of paper; generally the small bundles containing royal titles were stitched together, and on top of one another. I have stated before that a whole bundle of concessions would be more difficult to remove on account of the size. It would be much easier to take away a concession that was on a separate sheet of paper than to take away one of these bundles of royal titles that were stitched together.

Question. Have you ever known an instance, either under the Spanish Government or since the transfer of the province, in which a royal title was lost from the proper office?

Answer. I never heard of an instance.

Question. You have said that the papers in the office under the charge of Mr. Law were kept in great disorder. Do you believe that a person unacquainted with the manner in which they were kept could find any particular paper in a whole day's search?

Answer. I expect it would be a very difficult thing for a person not acquainted with the manner in which these papers were kept to find any particular paper. I can't tell whether he could do it in a day's search or not.

Testimony of John Rodman.

Of John Rodman.

John Rodman sworn as a witness in open court in behalf of the claimant.

Question. When did you arrive in this conntry?

Answer. On the 13th day of August, 1821.

Question. Were you or not in the habit of frequenting the office of public archives while under the charge of Mr. Edmund Law in this city? If you were, be pleased to state in what manner the papers in this office were at that time kept, whether with care or otherwise?

Answer. Yes. I was very often at the office of the archives while kept by Mr. Law. It was kept directly under this court room. I went to his office for the purpose of seeing the grants and other papers in the office. I became well acquainted with Mr. Law. He was a very gentlemanly man, and I always took him to be a very honost and honorable one in his public transactions. He kept his office of the public archives in the most careless, slovenly, and negligent manner imaginable. The public papers were lying, a

great many of them, on a long table, some in bundles, and some scattered about. The public office where these papers were kept was frequently left open, and no person in it to take charge of them. I would not venture to look at the papers when no person was in the office, but I frequently saw other persons that did; Spanish gentlemen, that I suppose thought they had a right to look at them. Mr. Law did not attend regularly himself in the office, being much afflicted with the rheumatism. Mr. Cavedo acted as his clerk generally, and was not regular in the office.

Question. Was this office at the time you refer to frequented indiscriminately by persons having business there, and by persons having no business there?

Answer. I can't say with regard to those who had no business there. With regard to those that had business there I will mention one occasion. The occasion which I mention was with Mr. Andrews, who was here, and agent for the sale of the Miranda grant. Mr. Andrews was afterwards made one of the judges under the ordinance of General Jackson. He asked me to accompany him to Mr. Law's office of public archives, to examine a large grant of land which he told me was made to Mr. Arredondo, Jun. He told me it was near the grant to Miranda, and was afraid that it encroached upon it. As I knew a little of Spanish, he called upon me to examine these two grants and compare them together. We found Mr. Cavedo in the office, but not Mr. Law. Mr. Cavedo took a large bundle of grants from off the table, and showed us both the grant to Miranda and the grant to Arredondo; Arredondo's for 250,000 acres. We examined very particularly both these grants, and Mr. Cavedo assisted us to translate them into English. We were perfectly satisfied they did not encroach upon each other. I can only observe that before the land commissioners, when they applied to establish the grant to Arredondo, it could not be found, and has never been found since.

Question. Have you or not constantly resided in St. Augustine since your first arrival in this Territory, and are you not an attorney and counsellor at law, and have you or not been for many years past the collector for this port and district?

Answer. I answer this question in the affirmative.

The counsel for the United States objected to all the testimony of this witness relating to the manner in which the office of the archives was kept, which objection was overruled by the court.

Examined by United States Attorneys.

Question. Did you ever go to the office without finding Mr. Cavedo there?

Answer. I have been there many times, at least a dozen times, and found no person there, and the office open; I repeatedly complained to Mr. Law about it; I very rarely found Mr. Law there; the reason that I went to this office so frequently was, because my

friends in New York requested me to examine the titles to land there, and I went to the office frequently for that purpose.

Testimony of John A. Cavedo.

John A. Cavedo, a witness sworn and examined under a commission duly issued from this court, by claimant.

Question. Do you know whether or not the office of the public archives of East Florida, was at any time in the keeping of one Edmund Law; and if so, when and how long, and in what house was such office kept by him?

Answer. I knew Edmund Law to have had the archives under his charge; I do not know how long, but it was kept at the government house.

Question. Were you or not in the habit of frequenting the said office of the public archives, while so under the charge of said Law?

Answer. I was; as he had employed me to write for him in the same office.

Question. In what condition were the papers in said office kept; were they carefully arranged on shelves, or carelessly scattered about the room?

Answer. There were a part of them kept on shelves, and a part of them on the floor; they were not at all kept carefully.

Question. Were the papers secured in bundles or not, and if they were generally so secured, were or not, in many instances, the fastenings of the bundles loosed, so that the separate sheets of which said bundles were composed were exposed to be scattered and blown about, and were they not often so scattered and blown about?

Answer. There were a part of them in bundles and a great many loose, they were exposed to be blown and scattered about the room; and were blown and scattered about the room.

Question. Have you or not, seen at various times the public papers in said office lying about in confusion on the floor?

Answer. Many times.

Question. Was or was not the said office the common thoroughfare and lounging place of a great many idle persons?

Answer. I don't know whether the persons that frequented the office, were idle or not; but there were a great many loungers about the office.

Question. Was or was not the said office frequently left open, without the presence of any person who was authorized to protect, supervise, and keep in custody the papers deposited in it?

Answer. It was.

Question. Do you or not know if it was the practice for persons who desired the use of papers on file in the said office, to take them out of said office, in as great numbers, and at any time they pleased to do so.

Answer. Mr. Law gave me an order to deliver the gentlemen of

the bar documents out of the office, by my receiving a receipt for the same.

Examined by United States Attorney.

Question. Please to name the persons who made said office a lounging place, and thoroughfare, at the time you mention?

Answer. I know several persons, to wit: Joseph S. Sanchez, Edward R. Gibson, Charles Vignoles, John M. Fontane, Rafael Fontane, Charles Gobert, Thomas Penn, Lewis Hugnon, and many others.

Question. Please to state how you know that the practice in relation to said office was as you have stated it; and particularly the time when, and what person took any original papers from said office; and what papers they took; and whether they did not return them again to said office?

Answer. I know of one instance wherein I took a receipt from Gautier, for the testamentory documents of the estate of Mateo Guadarama. I do not recollect the time.

No. 6.

Commissson to examine Alvarez.

Offered and read in behalf of United States.

TERRITORY OF FLORIDA:

In the name and by the authority of the United States of America, to John C. Cleland, Esquire, a Justice of the Peace, and to Elias B. Gould, Esquire, Judge of the County Court, greeting:

Whereas a certain claim to land is now depending in the superior court, for the district of East Florida, in which said claim John Broward is claimant, and the United States of America defendant; and it necessary to the investigation of said claim to have the testimony of Antonio Alvarez; the said John C. Cleland and Elias B. Gould, having been named by the said claimant and the said defendant, as commissioners to examine said witness on certain interrogatories.

Know ye that confiding in your prudence, ability, and integrity, you are by these presents appointed, and full power and authority are hereby given to you, diligently to examine the aforesaid witness upon certain interrogatories, as well on the part of the said plaintiff, as on the part of the said defendant, or of either party in said cause; and therefore you are hereby authorized and requested, on a certain day or on certain days, and at a certain place or at certain places, to be appointed by you for that purpose, to cause the

said witness to come before you, and then and there to examine him on the said interrogatories on his corporal oath, or on his solemn affirmation, first taken before you, and to take such his examination, and reduce it to writing on paper, and when you shall have so taken it, to sign the same with your name, and enclose and seal the whole together, conformably to the instructions hereunto subjoined.

And you are hereby further requested, that before you act in, or be present at the swearing or solemn affirming, and the examining of the said witness, you do make oath or solemn affirmation, that according to the best of your knowledge, you will truly, faithfully, and without partiality to any or either of the parties in said cause, take the examination and deposition of the witness produced and examined, by virtue of this commission, upon the interrogatories hereunto annexed and produced to you, and that you will not publish or make known to any person whomsoever, except the clerk or clerks, who may by you be employed and sworn to secresy in the execution of this commission, the contents of the deposition of the witness to be taken by you in this commission named, until publication shall pass by rule or order of the said superior court.

Witness the honorable Robert R. Reid, judge of the superior court for the district of East Florida, this 4th day of August, A. D. 1834.

[L. S.]

K. B. GIBBS, *Clerk.*

Instructions.

When the testimony is taken, the commissioner is required to sign his name at the bottom of each sheet of the deposition, and of the whole, after fixing and sealing the several sheets together, then to enclose the whole, examination, commission, and all, in an envelope sealed up, with his name written on the outside across the seal, and to endorse the packet on the corner thereof with the names of the parties, and direct the same to Kingsley B. Gibbs, clerk of the superior court at St. Augustine, and deliver it to him.

Interrogatories.

DISTRICT OF EAST FLORIDA, *Superior Court.*

THE UNITED STATES *ads.* JOHN BREWARD. } Land claim, 16,000 Acres.

Interrogatories to be propounded to Antonio Alvarez, Esquire, a witness to be sworn and examined on behalf of the United States, before Elias B Gould and John C. Cleland, Esquires:

First. Are you a native of East Florida or not?
Second. What is your age?

Third. How long have you resided in the city of St. Augustine, in East Florida?

Fourth. Did you hold any office in East Florida before the transfer of that province to the United States? If you did, please to state what office, and when and how long you discharged the duties of such office?

Fifth. Did you, at any time, act as clerk in the governor's secretary office, or in the office of the escribano or not? If you did, please to state which, when, and how long?

Sixth. In what office were concessions of land made and kept in East Florida, before the transfer of that province to the United States?

Seventh. In what office were royal titles (real titles) made and kept in East Florida, before the transfer of said province to the United States?

Eighth. In what office should the papers now be found deposited which are referred to in the 6th and 7th preceding interrogatories? Is or is not the public archives the proper place of deposite for such papers?

Ninth. Are you the keeper of the public archives of East Florida or not? If you are, please to state how long you have held said office.

Tenth. Is there any original grant or concession to John Breward for the above mentioned 16,000 acres of land on file in said archives or not?

Eleventh. Please to name the several persons who held and exercised the office of governor of the Province of East Florida between the years 1784 and 1821, and the time when each of said persons entered upon the discharge of his duties as such governor, and when they respectively ceased to discharge the said duties?

Twelfth. Is there any order on file in the said archives under your charge from the king of Spain, or from the council of the Indies, requiring said governor to render an account of his administration during the time when he held and discharged the duties of said office as governor as aforesaid? If there is, please to state to which of said governors said order was directed, and annex to your answer a copy thereof.

Thirteenth. Were any of said governors ever required to render such accouut? If yea, state which of them.

Fourteenth. Did any one of said governors ever render such an account? If they did, please state which of them, when it was made, and particularly whether such account contained a statement of the number of grants or concessions of land made by said governor during such administration, with the name (or names) of each grantee, (or grantees,) and the number of acres of land granted to each?

Fifteenth. Is there any copy of such an account made by any of said governors now on file in the archives, under your charge? If there is, please annex a copy thereof to your answer.

Sixteenth. Did any of said governors ever undergo a residencia in said province? If yea, which of them, and when.

Seventeenth. Did any of said governors ever render any account to the king, captain general, intendant of Cuba, or any other officer of the lands granted by him, except the single case of the exchange of lands for a vessel with Juan Russel, or not? If they did, please to state which of them, and of what said account consisted, and state also the particulars of the case of Juan Russell.

THOS. DOUGLAS,
United States Attorney.

JOHN BREWARD
vs.
THE UNITED STATES. } Land Claim for 16,000 Acres.

Cross Interrogatories.

First. If you answer to the 10th direct interrogatory, that the original grant or concession of the mill seat to John Broward, for the 16,000 acres, is not on file in your office, be pleased to state whether the original certificate of that grant or concession by Tomas de Aguilar, the secretary of the government, is there, and if so, how it came there?

Second. State whether such certificate was not the only original evidence of title furnished to the grantee by the government in cases of grants or concessions; and whether such certificate, according to Spanish law and usage, was not to serve the grantee as proof of his grant or concession in any event?

Third. Had the grantee, in case of grant or concession, any right to or control over the possession of the grant or concession deposited in the office of the secretary of government, and of which the grantee received a counterpart certified by the secretary?

Fourth. Is not the case of Juan Russell a matter of record in your office, and are all the proceedings set forth in writing thereon?

Objection.

To so much of the 17th direct interrogatory as makes enquiry as to the case of John Russell, and the particulars thereof from the witness, we object, because the testimony of the witness is not the best evidence in the case. The question itself supposes that John Russell's case is of record in writing in the office of the archives, and a copy of that record is better evidence of its contents than the verbal testimony of the witness.

LANCASTER AND SMITH,
For Claimants.

Answers of Antonio Alvarez.

SUPERIOR COURT, *District of East Florida.*

THE UNITED STATES *ads.* JOHN BROWARD. } Land Claim, 16,000 Acres.

The answers of Antonio Alvarez to the interrogatories and cross interrogatories hereunto annexed, taken before commissioners appointed for that purpose; in behalf of the United States.

To the first interrogatory. Witness answers, I am a native of East Florida.

Second. To this he answers, my age is forty-two years.

Third. To this he answers, St. Augustine has always been my residence. I was absent for sometime in 1809 and 1810, in the Havana.

Fourth. To this he answers, I was clerk in the government secretary's office from 1807 to the change of government, during which time I was absent in the year 1809 and part of 1810, and parts of 1814 and 1815.

Fifth. To this he answers, I was clerk in the government secretary's office, as stated in the preceding answer. I also acted as clerk in the office of the escribano for a few months in the year 1814.

Sixth. To this he answers, concessions of land were made and kept in the office of the secretary of the government.

Seventh. To this he answers, royal or real titles were made and kept in the office of the escribano.

Eighth. To this he answers, the proper place for the deposite of such papers is the office of the public archives.

Ninth. To this he answers, I am the keeper of the public archives, and I have held the office since 1829.

Tenth. To this he answers, there is no original grant to John Breward on file in the office of the public archives. There is a copy of said grant, certified by Thomas de Aguilar, as secretary of the Spanish Government, now on file in my office, which was transferred to me by the register and receiver of the land office, while acting as land commissioners.

Eleventh. To this he answers; Zespedez, from 1784 to 1790; Quesada, from 1790 to 1796; White, from 1796 to 1811; Estrada, from 1811 to June, 1812; Kindelan, from 1812, I believe to May, 1815; Estrada, the balance of 1815; and Coppinger, from 1816 to the change of flags. My knowledge of the time of the government of Zespedez and Quesada is derived from the information I obtained in the office of the secretary of the government.

Twelfth. To this he answers, I know of no such order.

Thirteenth. To this he answers, I know of none.

Fourteenth. To this he answers, none of the governors made such account.

Fifteenth. To this he answers, there is no such document on file in my office.

Sixteenth. To this he answers, I know of no governor of East Florida who underwent such residencia.

Seventeenth. To this he answers, the governors of East Florida never rendered an account of the lands granted by them, except in the case of the exchange of four thousand acres of land for a schooner, with John Russell.

To the first cross interrogatory, the witness answers, there is a copy of said grant on file in my office, certified by Tomas de Aguilar, as secretary of the Spanish Government, which copy was transferred to me by the register and receiver of the land office, whilst acting as land commissioners.

Second. To this he answers, I answer in the affirmative.

Third. To this he answers, the grantee had no right or control over the original.

Fourth. To this he answers, I answer in the affirmative.

ANTONIO ALVAREZ.

TERRITORY OF FLORIDA, *County of St. John's.*

We whose names are hereunto subscribed, commissioners named in the annexed commission, do certify, that after being sworn ourselves, we did examine the witness named in said commission, under oath, and his answers to the interrogatories and cross interrogatories annexed to said commission, are truly and correctly herein set forth.

Given under our hands at St. Augustine, the 6th of August, 1834.

JNO. C. CLELAND,
E. B. GOULD,
Commissioners.

No. 7.

Document in Russell's Case.

Offered and read on behalf of United States.

TRANSLATION.

Under date of the 14th of June last, his excellency, the minister of the royal domain, tells me what follows: "I have given to the king an account of your excellency's letter No. 9, of 20th November last, in which you inform of what was directed to you by the governor of East Florida, on the occasion of his having given to Don Juan Russell, one thousand acres of land, in exchange for a schooner, which he wanted for the royal service, and which with all its appurtenances, was valued at two thousand and six hundred dollars; his majesty being informed of the whole transaction, has been pleased to approve for this time only, the said determination in

consideration of the absolute want of funds in the said province, and commands me to charge you again, as I do charge you, to comply with the provisions of the royal orders of the 14th of November, of 1804, and of the 31st March, 1806, which prohibit the alienation of the royal lands which was made in favor of foreigners, and which provisions ought to be complied with rigirously in future.

This by order of his majesty, I communicate to your excellency, for your knowledge and government, and I communicate the same to your excellency, for the corresponding effects on your part.

God preserve your excellency many years. Habana, 4th March, 1815.

APODACA.

His Excellency the GOVERNOR of East Florida.

St. Augustine, 21st November, 1829. I certify that the preceding is a correct translation of the Spanish document annexed.

A. GAY,
Translator and Intr. of the Supr. Court.

Cause continued for further Proof.

And afterwards, at the same term of July, in the year of our Lord one thousand eight hundred and thirty-four, to wit, on Monday, the thirty-seventh day of said term, and the twenty-fourth day of the month of November, the following entry of record was made in this cause, to wit:

JOHN BROWARD
against
THE UNITED STATES OF AMERICA. } Land Claim, 16,000 Acres.

This case having been heard and submitted to the court at this term, and the court having examined the same, doth order that this cause be continued, with leave to the parties to introduce further proof therein; and leave is also given the said claimant to amend his petition, as to laying a foundation for the admission of a certified copy of the grant by Tomas de Aguilar, offered in this case, and as to stating those circumstances which give jurisdiction to the court, and which he has omitted to state.

Cause Continued.

And afterwards, before the superior court for the district of East Florida, holden at the court house, in the city of St. Augustine, at the term of July, in the year of our Lord one thousand eight hundred and thirty-seven, to which term this cause had come by regular continuance, to wit, on Monday, the second day of said term,

and the seventeenth of said month, the following entry of record was made in this cause, to wit:

JOHN BREWARD
vs.
THE UNITED STATES OF AMERICA. } Land Claim, 16,000 Acres.

This day came the counsel for the said United States, and the counsel for the claimant being absent from the court, and one from the district and territory; it is ordered that this cause be continued till the next term.

Cause again Submitted and leave to file Evidence.

And afterwards, before the superior court for the district of East Florida, holden at the court house, in the city of St. Augustine, at the term of July, in the year of our Lord one thousand eight hundred and forty, to which term this cause had come by regular continuance, to wit, on Tuesday, the second day of said term, and the fourteenth day of said month, the following entry of record was made in this cause, to wit:

JOHN BREWARD
vs.
THE UNITED STATES OF AMERICA. } Land Claim, 16,000 Acres.

This day came as well the counsel for the said claimant, as the counsel for the United States, and this claim was submitted to the court for its decree thereon, on the testimony and evidence heretofore offered and read to this court on the hearing thereof, at the July term, 1834, of this court, but which was, on this day, again offered and read to the court; and on motion of the complainant's solicitor, leave is given him during this term, to introduce testimony in this case relative to the survey of three thousand acres, offered herein, and dated 28th August, 1819.

Decree of the Court.

And afterwards, at the same term of July, in the year of our Lord one thousand eight hundred and forty, to wit, on Monday the sixth day of said term, and the twentieth day of the month of July, the following entry of record was made in this cause, to wit:

JOHN BREWARD
against
THE UNITED STATES OF AMERICA. } Land Claim, 16,000 Acres.

This day came as well the counsel for the said claimants, as the counsel for the United States. The claimants' counsel under the leave of the court entered herein on the 14th inst., offered evidence in

relation to the survey filed herein for three thousand acres, dated 28th August, 1819; whereupon the counsel for the United States withdrew the objections made to the admission of said survey. And this cause having been heard and submitted to the court, and the said court having examined the claim of the said petitioner, and the answer of the attorney of the United States, together with the evidence and testimony filed in this cause, and having maturely considered the same, doth order, adjudge and decree, that this claim is valid; and that, in accordance with the laws and customs of Spain, and under and by virtue of the late "Treaty of amity, settlement, and limits between the United States of America and the King of Spain," ratified by the President of the United States, on the 22d of February, 1821, and under and by virtue of the laws of nations and of the United States, it is hereby confirmed, adjudged and decreed, unto the said claimant, to the extent, for the number of acres, and at the places, as in the four certificates and plats of survey; the first for seven thousand acres, dated 27th May, 1817; the second for three thousand acres, dated 28th August, 1819, the third for two thousand acres, dated 10th of October, 1819, and the fourth for four thousand acres, dated 19th April, 1820, and filed herein, is set forth, to wit: the first survey of seven thousand acres is situated between the branches of Cedar creek and Dunn's creek, on the northern part of the river St. John's, and has the following lines, to wit: the only line on said survey runs from a pine tree on the banks of Dunn's creek, south fifty degrees west four hundred and forty chains to a pine tree on the banks of Big Cedar creek, the said tract being on all other sides bounded by said creeks. The second survey of three thousand acres is situated on the northern part of the river St. John's, and east of the royal road leading from said river to St. Mary's, and has the following lines, to wit: the first line commences at a pine tree, and runs north ten degrees west one hundred and sixty chains to another pine tree; the second line runs from said pine tree, south eighty degrees west one hundred and eighty-six chains to another pine tree; the third line runs from said pine tree south ten degrees east one hundred and sixty chains to another pine tree; and the fourth line runs from said pine tree north eighty degrees east one hundred and eighty-six chains to the pine at the beginning of the first line. The third survey of two thousand acres is situated in Cedar swamp, on the west part of the river St. John's, and at a place known under the name of Sugartown, and has the following lines, to wit: the first line commences at a red oak, and runs north thirty-one degrees west one hundred chains to a hickory; the second line commences at said hickory, and runs north fifty-nine degrees east two hundred chains to a red oak; the third line runs from said red oak south thirty-one degrees east, one hundred chains to a pine tree; and the fourth line runs from said pine tree south fifty-nine degrees west two hundred chains to the red oak at the beginning of

the first line. And the fourth survey of four thousand acres is situated in Cabbage hammock, on the east part of the river St. John's, and south of the branch called Dunn's creek, which runs from Dunn's lake to the said river, and has the following lines, to wit: the first line commences at a pine and runs south two hundred chains to another pine; the second line runs from said pine east two hundred chains to another pine; the third line runs from said pine north two hundred chains to another pine; and the fourth line runs from said pine west two hundred chains to the pine at the beginning of the first line.

Appeal.

And afterwards, at the same term of July, in the year of our Lord one thousand eight hundred and forty, to wit: on Wednesday, the eighth day of said term, and the twenty-second day of July, the following appeal was entered of record in this cause, to wit:

THE UNITED STATES OF AMERICA
ads.
JOHN BREWARD. } Land Claim, 16,000 Acres.

This day came, as well the attorney of the United States for this district, as the solicitor for the said claimant; and the said attorney of the United States moved the court that an appeal be granted in this case, on behalf of the said United States, from the decree of this court, to the Supreme Court of the United States; and that a citation, with notice of said appeal, may be forthwith issued by the clerk of this court to the appellees, and that the same may be served by the marshal of this district upon the said appellees, or his solicitor or agent, and returned to this court within thirty days from the issuing thereof. All of which is ordered accordingly.

Citation of Appeal and Return.

Copy of the citation of appeal issued in pursuance of the above order, with the return of the marshal thereon, to wit:

In the name and by the authority of the United States of America, to John Breward, or to his agent, attorney, or solicitor, greeting:

You are hereby cited and admonished that an appeal has been taken on the part of the United States from the decree of the superior court for East Florida to the Supreme Court of the United States, in a certain claim to sixteen thousand acres of land, wherein you the said John Breward are claimant, and the said United States respondent, and that the record in said cause will be forwarded to the said Supreme Court, to be placed on the docket of said court

at the next term thereof, to be holden on the second Monday of January next.

Witness the honorable Isaac H. Bronson, judge of our said court, at the court house in the city of St. Augustine, this 24th day of July, A. D. 1840. [L. S.]

K. B. GIBBS, *Clerk.*
THOS. DOUGLAS,
District Attorney.
JOHN DRYSDALE,
Solicitor for Claimant.

"Served by delivering a copy of this process to John Drysdale, Esq., July 27th, 1840.

JOHN M. FONTANE,
Deputy Marshal."

SUPERIOR COURT, *District of East Florida.*

I, Kingsley B. Gibbs, clerk of the said court for the district aforesaid, do hereby certify that the foregoing seventy-one pages and twenty lines, contain a full, true, and complete transcript of the record and proceedings had in the case therein named, in my charge.

In witness whereof, I have hereto set my hand and affixed the seal of the said court at the city of St. Augustine, this twentieth day of November, in the year of our Lord one thousand eight hundred and forty. [L. S.]

K. B. GIBBS, *Clerk.*

By the Honorable Isaac H. Bronson, Judge of the Superior Court for the district of East Florida, to all to whom these presents shall come, be seen, or made known, greeting:

Know ye, that Kingsley B. Gibbs, who hath signed the foregoing attestation, is clerk of the superior court for the district of East Florida; that all due faith and credit are and ought to be given to his acts as such, and that the foregoing attestation is in due form of law.

In testimony whereof, I have hereto set my hand at the city of St. Augustine, this twentieth day of November, A. D. 1840, and of the Independence of the United States of America the sixty-fifth year. [L. S.]

I. H. BRONSON, *Judge, &c.*